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5 IN THE UNITED STATES DISTRICT COURT
6
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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9 ROXANNE ARI,

No. C 18-4437 WHA (PR)

10 Petitioner,

**ORDER TO SHOW CAUSE;
GRANTING LEAVE TO PROCEED
IN FORMA PAUPERIS; DENYING
APPOINTMENT OF COUNSEL**

11 v.

12 WARDEN,

(Dkt. Nos. 2, 5, 6)

13 Respondent.
14 _____/

15 **INTRODUCTION**

16 Petitioner, a California prisoner, filed this pro se petition for a writ of habeas corpus
17 pursuant to 28 U.S.C. 2254 challenging her conviction in state court. For the reasons discussed
18 below, respondent is ordered to show cause why the petition should not be granted.

19 **STATEMENT**

20 Petitioner was convicted in Contra Costa County Superior Court in 1991 of second-
21 degree murder. She was initially found not guilty by reason of insanity, then when adjudged
22 sane, she stood trial and pled guilty. She was sentenced to a term of 19 years to life in state
23 prison. She challenged her conviction in a habeas petition in the California Supreme Court,
24 which was denied in 2017.

25 **ANALYSIS**

26 **A. STANDARD OF REVIEW**

27 This court may entertain a petition for writ of habeas corpus "in behalf of a person in
28 custody pursuant to the judgment of a State court only on the ground that he is in custody in
violation of the Constitution or laws or treaties of the United States." 28 U.S.C. 2254(a); *Rose*

1 *v. Hodges*, 423 U.S. 19, 21 (1975). Habeas corpus petitions must meet heightened pleading
2 requirements. *McFarland v. Scott*, 512 U.S. 849, 856 (1994). An application for a federal writ
3 of habeas corpus filed by a prisoner who is in state custody pursuant to a judgment of a state
4 court must “specify all the grounds for relief which are available to the petitioner ... and shall
5 set forth in summary form the facts supporting each of the grounds thus specified.” Rule 2(c) of
6 the Rules Governing Section 2254 Cases, 28 U.S.C. foll. 2254. “[N]otice’ pleading is not
7 sufficient, for the petition is expected to state facts that point to a ‘real possibility of
8 constitutional error.’” Rule 4 Advisory Committee Notes (quoting *Aubut v. Maine*, 431 F.2d
9 688, 689 (1st Cir. 1970)).

10 **B. LEGAL CLAIMS**

11 Petitioner claims: (1) that her conviction violates the Double Jeopardy Clause; (2) that
12 her right to due process was violated; (3) that she received ineffective assistance of counsel; and
13 (4) “widespread criminal conspiracy and corruption.” The fourth claim does not raise
14 cognizable grounds for federal habeas relief because no constitutional right or other federal law
15 is invoked. The first three claims are cognizable, however, and warrant a response.

16 **CONCLUSION**

17 1. The clerk shall mail a copy of this order and the petition with all attachments to the
18 respondent and the respondent's attorney, the Attorney General of the State of California. The
19 clerk shall also serve a copy of this order on the petitioner.

20 2. Respondent shall file with the court and serve on petitioner, within **sixty-three (63)**
21 **days** of the issuance of this order, an answer conforming in all respects to Rule 5 of the Rules
22 Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be
23 granted based on the claims found cognizable herein. Respondent shall file with the answer and
24 serve on petitioner a copy of all portions of the state prison disciplinary proceedings that are
25 relevant to a determination of the issues presented by the petition.

26 If petitioner wishes to respond to the answer, she shall do so by filing a traverse with the
27 court and serving it on respondent within **twenty-eight days** of the date the answer is filed.

28 3. Respondent may file, within **sixty-three (63) days**, a motion to dismiss on procedural


1 grounds in lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the
2 Rules Governing Section 2254 Cases. If respondent files such a motion, petitioner shall file
3 with the court and serve on respondent an opposition or statement of non-opposition within
4 **twenty-eight days** of the date the motion is filed, and respondent shall file with the court and
5 serve on petitioner a reply within **fourteen days** of the date any opposition is filed.

6 4. Petitioner is reminded that all communications with the court must be served on
7 respondent by mailing a true copy of the document to respondent's counsel. Petitioner must
8 keep the court informed of any change of address and must comply with the court's orders in a
9 timely fashion. Failure to do so may result in the dismissal of this action for failure to prosecute
10 pursuant to Federal Rule of Civil Procedure 41(b).

11 5. Leave to proceed in forma pauperis is **GRANTED**. The motion for appointment of
12 counsel is **DENIED**. Counsel will be appointed at a later date if an evidentiary hearing or other
13 circumstance necessitates such appointment.

14 **IT IS SO ORDERED.**

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16 Dated: October 16, 2018.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE